

Prepared by and Return to:  
Timothy W. Corrigan, Esquire  
Moore & Van Allen, PLLC  
100 North Tryon Street, Suite 4700  
Charlotte, North Carolina 28202  
Phone: (704)331-1019

10/30/06 4:09:40 PM  
BK 116 PG 672  
DESO TO COUNTY, MS  
W.E. DAVIS, CH CLERK

**SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT  
[Camp Creek Shopping Center-Phases I&II]**

This Subordination, Non-Disturbance and Attornment Agreement (the "Agreement") is dated as of the 18<sup>th</sup> day of October, 2006, between Wachovia Bank, National Association, a national banking association ("Lender"), and JME Tennessee, Inc., a Tennessee corporation ("Tenant").

**RECITALS**

A. Tenant is the tenant under a certain lease (the "Lease") dated July 22, 2004, with MC Roswell, LLC, a North Carolina limited liability company, or its successors and assigns ("Landlord") or its predecessor in interest, of premises described in the Lease (the "Premises") located in a certain shopping center known as Camp Creek Shopping Center-Phases I&II located in Olive Branch, Mississippi and more particularly described in Exhibit A attached hereto and made a part hereof (such shopping center, including the Premises, is hereinafter referred to as the "Property").

B. This Agreement is being entered into in connection with a mortgage loan (the "Loan") being made by Lender to Landlord, to be secured by, among other things: (a) a first mortgage, deed of trust or deed to secure debt on and of the Property (the "Mortgage") to be recorded with the registry or clerk of the county in which the Property is located; and (b) a first assignment of leases and rents on the Property (the "Assignment of Leases and Rents") to be recorded. The Mortgage and the Assignment of Leases and Rents are hereinafter collectively referred to as the "Security Documents".

C. Tenant acknowledges that Lender will rely on this Agreement in making the Loan to Landlord.

**AGREEMENT**

For mutual consideration, including the mutual covenants and agreements set forth below, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Tenant agrees that the Lease is and shall be subject and subordinate to the Security Documents and to all present or future advances under the obligations secured thereby and all renewals, amendments, modifications, consolidations, replacements and extensions of the secured obligations and the Security Documents, to the full extent of all amounts secured by the Security Documents from time to time. Said subordination is to have the same force and effect as if the Security Documents and such renewals, modifications, consolidations, replacements and extensions thereof had been

executed, acknowledged, delivered and recorded prior to the Lease, any amendments or modifications thereof and any notice thereof.

2. Lender agrees that, if the Lender exercises any of its rights under the Security Documents, including an entry by Lender pursuant to the Mortgage or a foreclosure of the Mortgage, Lender shall not disturb Tenant's right of quiet possession of the Premises under the terms of the Lease so long as Tenant is not in default beyond any applicable grace period of any term, covenant or condition of the Lease.

3. Tenant agrees that, in the event of a foreclosure of the Mortgage by Lender or the acceptance of a deed in lieu of foreclosure by Lender or any other succession of Lender to fee ownership, Tenant will attorn to and recognize Lender as its landlord under the Lease for the remainder of the term of the Lease (including all extension periods which have been or are hereafter exercised) upon the same terms and conditions as are set forth in the Lease, and Tenant hereby agrees to pay and perform all of the obligations of Tenant pursuant to the Lease.

4. Tenant agrees that, in the event Lender succeeds to the interest of Landlord under the Lease, Lender shall not be:

(a) liable for any act or omission of any prior Landlord (including, without limitation, the then defaulting Landlord), or

(b) subject to any defense or offsets which Tenant may have against any prior Landlord (including, without limitation, the then defaulting Landlord), or

(c) bound by any payment of rent or additional rent which Tenant might have paid for more than one month in advance of the due date under the Lease to any prior Landlord (including, without limitation, the then defaulting Landlord), or

(d) bound by any obligation to make any payment to Tenant which was required to be made prior to the time Lender succeeded to any prior Landlord's interest, or

(e) accountable for any monies deposited with any prior Landlord (including security deposits), except to the extent such monies are actually received by Lender, or

(f) bound by any surrender, termination, amendment or modification of the Lease made without the consent of Lender.

5. Tenant agrees that, notwithstanding any provision hereof to the contrary, the terms of the Mortgage shall continue to govern with respect to the disposition of any insurance proceeds or eminent domain awards, and any obligations of Landlord to restore the real estate of which the Premises are a part shall, insofar as they apply to Lender, be limited to insurance proceeds or eminent domain awards received by

Lender after the deduction of all costs and expenses incurred in obtaining such proceeds or awards.

6. Tenant hereby agrees to give to Lender copies of all notices of Landlord default(s) under the Lease in the same manner as, and whenever, Tenant shall give any such notice of default to Landlord, and no such notice of default shall be deemed given to Landlord unless and until a copy of such notice shall have been so delivered to Lender. Lender shall have the right to remedy any Landlord default under the Lease, or to cause any default of Landlord under the Lease to be remedied, and for such purpose Tenant hereby grants Lender such additional period of time as may be reasonable to enable Lender to remedy, or cause to be remedied, any such default in addition to the period given to Landlord for remedying, or causing to be remedied, any such default. Tenant shall accept performance by Lender of any term, covenant, condition or agreement to be performed by Landlord under the Lease with the same force and effect as though performed by Landlord. No Landlord default under the Lease shall exist or shall be deemed to exist (i) as long as Lender, in good faith, shall have commenced to cure such default within the above referenced time period and shall be prosecuting the same to completion with reasonable diligence, subject to force majeure, or (ii) if possession of the Premises is required in order to cure such default, or if such default is not susceptible of being cured by Lender, as long as Lender, in good faith, shall have notified Tenant that Lender intends to institute proceedings under the Security Documents, and, thereafter, as long as such proceedings shall have been instituted and shall be prosecuted with reasonable diligence. In the event of the termination of the Lease by reason of any default thereunder by Landlord, upon Lender's written request, given within thirty (30) days after any such termination, Tenant, within fifteen (15) days after receipt of such request, shall execute and deliver to Lender or its designee or nominee a new lease of the Premises for the remainder of the term of the Lease upon all of the terms, covenants and conditions of the Lease. Lender shall have the right, without Tenant's consent, to foreclose the Mortgage or to accept a deed in lieu of foreclosure of the Mortgage or to exercise any other remedies under the Security Documents.

7. Tenant hereby consents to the Assignment of Leases and Rents from Landlord to Lender in connection with the Loan. Tenant acknowledges that the interest of the Landlord under the Lease is to be assigned to Lender solely as security for the purposes specified in said assignments, and Lender shall have no duty, liability or obligation whatsoever under the Lease or any extension or renewal thereof, either by virtue of said assignments or by any subsequent receipt or collection of rents thereunder, unless Lender shall specifically undertake such liability in writing or unless Lender or its designee or nominee becomes, and then only with respect to periods in which Lender or its designee or nominee becomes, the fee owner of the Premises. Tenant agrees that upon receipt of a written notice from Lender of a default by Landlord under the Loan, Tenant will thereafter, if requested by Lender, pay rent to Lender in accordance with the terms of the Lease.

8. The Lease shall not be assigned by Tenant, modified, amended or terminated (except a termination that is permitted in the Lease without Landlord's consent) without Lender's prior written consent in each instance.

9. Any notice, election, communication, request or other document or demand required or permitted under this Agreement shall be in writing and shall be deemed delivered on the earlier to occur of (a) receipt or (b) the date of delivery, refusal or nondelivery indicated on the return receipt, if deposited in a United States Postal Service Depository, postage prepaid, sent certified or registered mail, return receipt requested, or if sent via a recognized commercial courier service providing for a receipt, addressed to Tenant or Lender, as the case may be, at the following addresses:

If to Tenant: JME, TN INC.  
725 Coulter Dr.  
New Albany, MS 38652

with a copy to: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

If to Lender: Wachovia Bank, National Association  
 Commercial Real Estate Services  
 8739 Research Drive URP-4  
 NC 1075  
 Charlotte, North Carolina 28262  
 Loan Number: \_\_\_\_\_  
 Attention: Portfolio Management  
 Fax: (704) 715-0036

with a copy to: Moore & Van Allen, PLLC  
 100 North Tryon Street, Suite 4700  
 Charlotte, North Carolina 28202  
 Attention: Timothy W. Corrigan, Esq.

10. The term "Lender" as used herein includes any successor or assign of the named Lender herein, including without limitation, any co-lender at the time of making the Loan, any purchaser at a foreclosure sale and any transferee pursuant to a deed in lieu of foreclosure, and their successors and assigns, and the terms "Tenant" and "Landlord" as used herein include any successor and assign of the named Tenant and Landlord herein, respectively; provided, however, that such reference to Tenant's or Landlord's successors and assigns shall not be construed as Lender's consent to any assignment or other transfer by Tenant or Landlord. Without limiting the generality of the foregoing, the term "Landlord" shall include MC Roswell, LLC, its successors and assigns, which entities shall purchase the Property, shall be the borrower under the Loan and shall execute this Agreement as "Landlord."

11. If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be deemed modified to the extent necessary to be enforceable, or if such modification is not practicable, such provision shall be deemed deleted from this Agreement, and the other

provisions of this Agreement shall remain in full force and effect, and shall be liberally construed in favor of Lender.

12. Neither this Agreement nor any of the terms hereof may be terminated, amended, supplemented, waived or modified orally, but only by an instrument in writing executed by the party against which enforcement of the termination, amendment, supplement, waiver or modification is sought.

This Agreement shall be construed in accordance with the laws of the state of in which the Property is located.

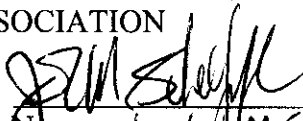
The person executing this Agreement on behalf of Tenant is authorized by Tenant to do so and execution hereof is the binding act of Tenant enforceable against Tenant.

Witness the execution hereof under seal as of the date first above written.

LENDER:

WACHOVIA BANK, NATIONAL  
ASSOCIATION


By:

  
Name: JOHN M. SCHELL  
Title: DIRECTOR

TENANT:

JME TENNESSEE, INC., a Tennessee  
corporation

By:

  
Name: Mark F. Garrett  
Title: President

The undersigned Landlord hereby consents to the foregoing Agreement and confirms the facts stated in the foregoing Agreement.

LANDLORD:

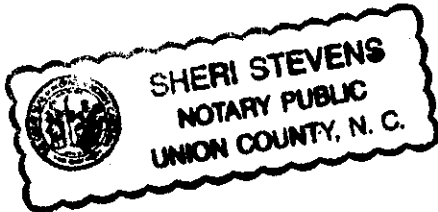
CC INVESTMENT GROUP, LLC, a North  
Carolina limited liability company

By: MEL  
Name: Michael E. Calandra  
Title: Manager

LENDER

STATE OF NORTH CAROLINA    )  
   )  
 COUNTY OF MECKLENBURG    )       SS.

Personally appeared before me, the undersigned authority in and for the said county and state, on this 26 day of OCT, 2006, within my jurisdiction, the within named John Schellgeffer, who acknowledged that (he) (she) is Director of WACHOVIA BANK, NATIONAL ASSOCIATION, a national banking association, and that for and on behalf of the said association, and as its act and deed (he) (she) executed the above and foregoing instrument, after first having been duly authorized by said association so to do.

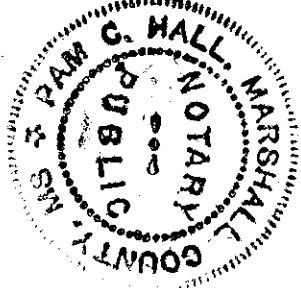


Sheri Stevens  
 Notary Public  
 My commission expires: 1-12-2008

TENANT

STATE OF Mississippi )  
 ) SS.  
 COUNTY OF Marshall )

Personally appeared before me, the undersigned authority in and for the said county and state, on this 18th day of October, 2006, within my jurisdiction, the within named Mark Barrett, who acknowledged that (he) (she) is President of JME TW, Inc., a Corporation, and that for and on behalf of the said Corporation, and as its act and deed (he) (she) executed the above and foregoing instrument, after first having been duly authorized by said Corporation so to do.



Pam C. Hall  
 Notary Public

My commission expires: 5.26.09



LANDLORD

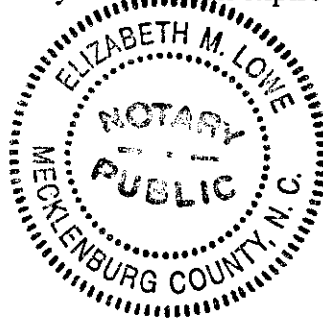
STATE OF NORTH CAROLINA    )  
   )       SS.  
 COUNTY OF MECKLENBURG    )

Personally appeared before me, the undersigned authority in and for the said county and state, on this 26 day of October, 2006, within my jurisdiction, the within named Michael E. Calandra, who acknowledged that (he) (she) is the Manager of CC Investment Group, LLC, a North Carolina limited liability company, and that for and on behalf of the said limited liability company, and as its act and deed (he) (she) executed the above and foregoing instrument, after first having been duly authorized by said limited liability company so to do.

*Elizabeth M. Lowe*

Notary Public

My commission expires: 9-5-11



## EXHIBIT "A"

Lots 1, 3, 4 and 7, Craft-Goodman Commercial Subdivision, Third Revision of Phase 1, in Section 28, Township 1 South, Range 6 West, City of Olive Branch, Desoto County, Mississippi, as shown by plat appearing of record in Plat Book 82, Page 24, in the Office of the Chancery Clerk of Desoto County, Mississippi, and also being described as follows:

Lot 1 Description: A Tract of land being Lot No. 1 of Craft-Goodman Commercial Subdivision, Phase 1, also being a fraction of the Southwest Quarter (SW 1/4) of Section 28, Township 1 South, Range 6 West, City of Olive Branch, Desoto County, Mississippi; said tract being described in more detail as follows:

Commencing from the Southwest corner of Section 28, Township 1 South, Range 6 West, City of Olive Branch, Desoto County, Mississippi; run thence North 00 degrees 05' 06" East for a distance of 988.04 feet to a 1/2" rebar found at the Point of Beginning of this description; run thence North 00 degrees 05' 06" East for a distance of 510.80 feet to a pk nail found in a creosote wood post; run thence South 85 degrees 56' 36" East for a distance of 271.68 feet to a 1/2" iron bar found; thence North 77 degrees 38' 53" East for a distance of 98.69 feet to a 1/2" rebar set; run thence South 12 degrees 17' 48" East for a distance of 246.96 feet to a pk nail set; run thence South 25 degrees 26' 34" East for a distance of 56.63 feet to a pk nail on the North right-of-way line of Camp Creek Boulevard, said pk nail also being the beginning of a circular curve to the left; run thence along said curve and right-of-way line having an arc length of 333.21 feet, chord bearing of South 42 degrees 52' 31" West, a chord length of 325.46 feet, and a radius of 444.50 feet to a pk nail found; run thence North 68 degrees 33' 55" West, leaving said right-of-way line, for a distance of 49.96 feet to a pk nail found; run thence Due West for a distance of 177.14 feet to the Point of Beginning of the herein described tract of land.

Lot 4 Description: A Tract of land being Lot No. 4 of Craft-Goodman Commercial Subdivision, Phase 1, also being a fraction of the Southwest Quarter (SW 1/4) of Section 28, Township 1 South, Range 6 West, City of Olive Branch, Desoto County, Mississippi; said tract being described in more detail as follows:

Commencing from the Southwest corner of Section 28, Township 1 South, Range 6 West, City of Olive Branch, Desoto County, Mississippi; run thence North 00 degrees 05' 06" East for a distance of 751.86 feet to a 1/2" rebar set on the North right-of-way line of Craft-Goodman Frontage Road and the Point of Beginning of this description; run thence North 00 degrees 05' 06" East, leaving said right-of-way line, for a distance of 236.18 feet to a 1/2" rebar found; run thence Due East for a distance of 177.14 feet to a pk nail found; run thence South 68 degrees 33' 55" East for a distance of 49.96 feet to a pk nail found on the West right-of-way line of Camp Creek Boulevard, said point also being the beginning of a circular curve to the left; run thence along said right-of-way line as follows: along said curve having an arc length of 135.63 feet, a chord bearing of South 12 degrees 39' 32" West, a chord length of 135.11 feet, and a radius of 444.50 feet to a 1/2" rebar set; run thence South 03 degrees 55' 02" West for a distance of 35.58 feet to a 1/2"

rebar set at the beginning of a right-of-way flare line; run thence South 48 degrees 55' 06" West, along said flare line, for a distance of 31.38 feet to a chiseled "x" made in concrete on the aforementioned North right-of-way line of Craft-Goodman Frontage Road, said chiseled "x" also being the beginning of a circular curve to the left; run thence along said curve and right-of-way line having an arc length of 171.59 feet, a chord bearing of South 79 degrees 53' 56" West, a chord length of 170.95 feet, and a radius of 572.00 feet to the Point of Beginning of the herein described tract of land.

Lot 7 Description: A Tract of land being Lot No. 7 of Craft-Goodman Commercial Subdivision, Phase 1, also being a fraction of the Southwest Quarter (SW 1/4) of Section 28, Township 1 South, Range 6 West, City of Olive Branch, Desoto County, Mississippi; said tract being described in more detail as follows:

Commencing from the Southwest corner of Section 28, Township 1 South, Range 6 West, City of Olive Branch, Desoto County, Mississippi; run thence Due East for a distance of 446.55 feet to a point, run thence Due North for a distance of 1,208.29 feet to a PK nail set in asphalt on the North right-of-way line of Camp Creek Boulevard, said PK nail also being the Point of Beginning of this description; run thence North 25 degrees 26' 34" West, leaving said right-of-way line, for a distance of 56.63 feet to a PK nail set; run thence North 12 degrees 17' 48" West for a distance of 246.96 feet to a 1/2" rebar set, run thence North 77 degrees 38' 53" East for a distance of 311.23 feet to a 1/2" rebar found; run thence South 11 degrees 06' 33" East for a distance of 317.33 feet to a 1/2" rebar set on the aforementioned North right-of-way of Camp Creek Boulevard; run thence along said right-of-way line as follows: South 87 degrees 53' 39" West for a distance of 112.24 feet to a 1/2" rebar set at the beginning of a circular curve to the left; run thence along said curve having an arc length of 182.65 feet, a chord bearing of South 76 degrees 07' 20" West, a chord length of 181.37 feet, and a radius of 444.50 feet to the Point of Beginning of the herein described tract of land.

Lot 3 Description: A Tract of land being Lot No. 3 of Craft-Goodman Commercial Subdivision, Phase 1, also being a fraction of the Southwest Quarter (SW 1/4) of Section 28, Township 1 South, Range 6 West, City of Olive Branch, Desoto County, Mississippi; said tract being described in more detail as follows:

Commencing from the Southwest corner of Section 28, Township 1 South, Range 6 West, City of Olive Branch, Desoto County, Mississippi; run thence Due East for a distance of 884.49 feet to a point; run thence Due North for a distance of 982.44 feet to a 1/2" rebar found on the South Right-of-way line of Camp Creek Boulevard, said rebar also being the Point of Beginning of this description; run thence along said right-of-way line as follows: North 87 degrees 53' 39" East for a distance of 296.17 feet to a 1/2" rebar at the beginning of a circular curve to the left; run thence along said curve having an arc length of 132.65 feet, a chord bearing of North 79 degrees 11' 17" East, a chord length of 132.14 feet, and a radius of 436.50 feet to a 1/2" rebar set; run thence South 19 degrees 01' 17" East, leaving said right-of-way line, for a distance of 72.44 feet to a 1/2" rebar set; run thence South 63 degrees 20' 50" West for a distance of 209.84 feet to a 1/2" rebar set; run thence South 64 degrees 44' 56" West for a distance of 176.34 feet to a 1/2" rebar

found; run thence North 26 degrees 50' 53" West for a distance of 226.60 feet to the Point of Beginning of the herein described tract of land.

Together with all right, title and interest of CC Investment Group, LLC under and pursuant to Reciprocal Easement Agreement dated as of October 8, 2003, by and between Camp Creek Center, a Mississippi limited liability company and BLOCKBUSTER of Tennessee, Ltd., a Tennessee limited partnership, filed for record October 9, 2003 at 1:11 P.M., and recorded in Book 455, Page 330, in the Office of the Chancery Clerk of Desoto County, Mississippi, as to Lots 4 and 7.

Together with all right, title and interest of CC Investment Group, LLC under and pursuant to Reciprocal Easement Agreement dated as of June 29, 2001, by and between Camp Creek Center, L.L.C. and John Hyneman Development Co., Inc. and Anthony M. McGregor, filed for record July 2, 2001 at 4:34 P.M. and recorded in Book 395, Page 386, in the Office of the Chancery Clerk of Desoto County, Mississippi.

Together with all right, title and interest of CC Investment Group, LLC under and pursuant to that certain Declaration of Easements, Covenants and Restrictions dated as of March 6, 2002, filed for record March 19, 2002 at 1:46 P.M., and recorded in Book 414, Page 309, in the Office of the Chancery Clerk of Desoto County, Mississippi, as amended by that certain First Amendment to Declaration of Easements, Covenants and Restrictions dated as of August 20, 2004, filed for record September 8, 2004 at 2:40 P.M., and recorded in Book 481, Page 619 in the Office of the Chancery Clerk of Desoto County, Mississippi.

#### INDEXING INSTRUCTIONS:

Lots 1, 3, 4 and 7, Craft-Goodman Commercial Subdivision, Third Revision of Phase 1, in Section 28, T1S, R6W, Desoto County, Mississippi as shown by plat in Plat Book 82, Page 24